

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: ABEYANCE - VAR-29881 - APPLICANT/OWNER: CAROLYN AHERN**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-29879) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**VAR-29881 - Staff Report Page One**  
**January 22, 2009 - Planning Commission Meeting**

**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance (VAR-29881) to allow a 13-foot setback along the east property line where 20 feet is required on 1.66 acres on the east side of Oso Blanca Road approximately 850 feet north of Kyle Canyon Road.

In addition to this request, the applicant has submitted a request for a General Plan Amendment (GPA-29877) to Amend a portion of the Centennial Hills Sector Plan of the General Plan from PCD (Planned Community Development) to GC (General Commercial) and a Rezoning (ZON-29878) from U (Undeveloped) [PCD (Planned Community Development) General Plan designation] to C-2 (General Commercial). Additionally, the applicant has submitted a Site Development Plan Review (SDR-29879) for a proposed 3,400 square-foot Service Station (without Automotive Repair) composed of a Convenience Store, Car Wash and Fuel Pumps and a 5,300 square-foot Restaurant with Drive-Thru with Waivers of the perimeter landscape requirements to allow a six-foot buffer along the south and east property lines where eight feet is required and a six-foot buffer along the west property line where 15 feet is required.

The subject property is in a remote location with minimal infrastructure. The requests for the General Plan Amendment (GPA-29877) and Rezoning (ZON-29878) will create an isolated and stand alone land use, highlighting the premature nature of this request. The applicant has redesigned the site since the original submittal, combining two Restaurants with Drive Thrus into a single building and eliminating the need for a parking Variance; however, the need for a setback Variance still exists. Additionally, the requests for the multiple Waivers and a setback Variance indicate this site is overbuilt; therefore, staff recommends denial of this request.

**BACKGROUND INFORMATION**

<i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i>	
06/18/08	The City Council approved a Petition to Annex (ANX-27240) property located on the east side of the Oso Blanca Road 850 feet north of the Kyle Canyon Road containing approximately 1.66 acres. The effective date of this Annexation was 06/27/08. The Planning Commission and staff recommended approval of this request.

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11/20/08	The Planning Commission held in abeyance for 60 days a request for a General Plan Amendment (GPA-29877) to Amend a portion of the Centennial Hills Sector Plan of the General Plan from PCD (Planned Community Development) to GC (General Commercial), a Rezoning (ZON-29878) from U (Undeveloped) [PCD (Planned Community Development) General Plan designation] to C-2 (General Commercial), a Variance (VAR-29881) to allow a 13-foot setback along the east property line where 20 feet is required and a Site Development Plan Review (SDR-29879) for a proposed 3,400 square-foot Service Station (without Automotive Repair) composed of a Convenience Store, Car Wash and Fuel Pumps and a 5,300 square-foot Restaurant with Drive-Thru with Waivers of the perimeter landscape requirements to allow a six-foot buffer along the south and east property lines where eight feet is required and a six-foot buffer along the west property line where 15 feet is required on 1.66 acres on the east side of Oso Blanca Road approximately 850 feet north of Kyle Canyon Road.
<b><i>Related Building Permits/Business Licenses</i></b>	
There are no building permits that exist for this site.	
<b><i>Pre-Application Meeting</i></b>	
08/20/08	A pre-application meeting was held with the applicant where elements of a General Plan Amendment, a Rezoning, a Site Development Plan Review, a parking Variance and a building setback Variance were discussed.

<b><i>Neighborhood Meeting</i></b>	
09/24/08	A neighborhood meeting was held at 6:00 P.M. at 6601 N Buffalo Dr., Las Vegas, Nevada 89131. There were no members of the public, two members of the development team and one member of the Planning and Development staff present. The meeting was ended at 6:30 P.M.

<b><i>Field Check</i></b>	
09/16/08	A field check was performed by staff at the subject property. The site was noted as vacant, consisting of natural rolling Mojave desert terrain adjacent to U.S. 95.

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	1.66

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<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Undeveloped	PCD (Planned Community Development)	U (Undeveloped) [PCD (Planned Community Development) General Plan Designation]
North	U.S. 95	R.O.W.	R.O.W.
South	Undeveloped	SC (Service Commercial)	U (Undeveloped) [SC (Service Commercial) General Plan Designation]
East	U.S. 95	R.O.W.	R.O.W.
West	Undeveloped	PCD (Planned Community Development)	H-2 (General Highway Frontage) – Clark County

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>		X	N/A
<b>Trails</b>		X	N/A
<b>Rural Preservation Overlay District</b>		X	N/A
<b>Development Impact Notification Assessment</b>		X	N/A
<b>Project of Regional Significance</b>		X	N/A

**DEVELOPMENT STANDARDS**

*Pursuant to Title 19.08.050, the following standards apply:*

<b><i>Standard</i></b>	<b><i>Required/Allowed</i></b>	<b><i>Provided</i></b>	<b><i>Compliance</i></b>
Min. Lot Size	N/A	80,511 SF	N/A
Min. Lot Width	100	300 Feet	Y
Min. Setbacks			
• Front	20 Feet	20 Feet	Y
• Side	15 Feet	30 Feet	Y
• Rear	20 Feet	13 Feet	N*
Max. Lot Coverage	50%	15%	Y
Max. Building Height	150 Feet	30 Feet	Y
Trash Enclosure	Screened, Enclosed	Screened	N**
Mech. Equipment	Screened	Screened	Y

\* The applicant has submitted this Variance request to allow a 13-foot setback along the east property line where 20 feet is required. This represents a 35% deviation from Title 19 requirements.

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\*\* The elevations provided of the trash enclosure depict a screened trash enclosure with metal gates, however the roof or trellis element as required by Title 19.08.050(E)(4)(b) has not been provided. A condition has been added to Site Development Plan Review (SDR-29879) requiring the applicant to provide a roof or trellis structure per Title 19.08.050(E)(4)(b).

## **ANALYSIS**

The site plans submitted for the proposed development show a Service Station (without Automotive Repair) composed of a Convenience Store, Car Wash and Fuel Pumps at the southeast corner of the property, 13.25 feet from the eastern property line. The development standard for the proposed C-2 (General Commercial) zoning district requires a 20-foot setback along the rear property line. The applicant has requested this Variance in order to accommodate the drive-thru portion of the proposed Car Wash facility. Staff finds that the subject property, while redesigned since the original submittal, still cannot successfully accommodate all the proposed uses on a minimal 1.66 acre site. The requests for the multiple Waivers and a setback Variance indicate that the subject property as proposed is overbuilt; therefore staff recommends denial of this request.

## **FINDINGS**

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by overbuilding the subject property. A redesign of the site to lessen the intensity, size, or quantity of the proposed uses on site would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**ASSEMBLY DISTRICT**      13

**NOTICES MAILED**      41

**APPROVALS**      0

**PROTESTS**      2